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The EU-Ukraine Association Agreement As A Framework Of Integration Between The Two Parties

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Abstract

The strengthening of relations between EU and Ukraine is of strategic significance to the two parties, both politically and economically, given the size and geographic position of the country under consideration and the fact that EU is already one of the major commercial partners of Ukraine. Towards this goal, the partnership and cooperation regime should be succeeded by an association regime joining the two sides. Negotiations for the conclusion of a pioneer Association Agreement (AA), the first with a country of Eastern Partnership, have been completed. However, its final signature depends upon the fulfillment, from the side of Ukraine, of specific terms related to the progress of internal reforms in the nation's political, economic and legal system. The AA will become the legal framework for the political association and economic integration between the contracting parties. Crucial component of the agreement is a deep and comprehensive free trade area (DCFTA), the establishment of which is expected to contribute in Ukraine's economic modernization and integration with EU's internal market, mainly by adopting the trade-related EU acquis. The aim of this paper is to examine the importance of the AA and in particular the rules governing the liberalization of bilateral trade, the implementation mechanisms laid down and the issues related to the perspective of Ukraine's accession to the EU.

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1. The EU-Ukraine partnership and cooperation regime

With the European countries which were not members of the EU, mainly the states of the European Free Trade Association, Cyprus, Malta, Turkey, the Western Balkans and the countries of Central and Eastern Europe- the EU has concluded agreements that establish association regime with a view to the accession of these countries to the EU, or at least their involvement in the process of European integration through the adoption of the EU acquis¹.

In contrast, the EU's relations with Ukraine (as well as other states of the Commonwealth of Independent States), are governed by a regime of cooperation and partnership. This scheme is based on the Partnership and Cooperation Agreement (PCA) concluded between the European Community (EC) and its Member States on the one hand and Ukraine on the other². This agreement does not establish an association nor aims at Ukraine's accession to the EU. It is important to note it doesn't provide for integration of Ukraine with the EU but establishes a framework for cooperation and the coordination of certain policies.

Since the EU-Ukraine PCA covered various areas such as political dialogue, trade in goods, business and investment, establishment and operation of companies, cross-border provision of services, current payments and capital movements, economic cooperation, industrial cooperation, scientific and technological cooperation, cooperation in agriculture, the

¹ It should be noted that many of these countries have already joined the EU: Poland, Hungary, Czech Republic, Slovakia, Slovenia, Estonia, Lithuania, Latvia, Austria, Sweden, Finland, Malta, Cyprus.

² See Decision 98/149/EC of 26.1.1998, OJ L 49, 19-2-1998.

energy sector, transportation, cooperation on democracy and human rights and cooperation to control illegal immigration and illegal activities, several articles of the EC Treaty were used as legal basis for the decision of the agreement.

It constitutes a partnership of which the base is the strengthening of political and economic freedoms and its central objectives are to support the independence and sovereignty of Ukraine, to establish a regular political dialogue on bilateral and international issues of mutual interest, to support the efforts of State to consolidate its democracy and to develop its economy and to complete the transition to a market economy.

The PCA provides for the establishment of an institutional structure that includes the Cooperation Council, the Cooperation Committee and the Parliamentary Cooperation Committee. It should be noted that under evolutionary clause contained in the EU-Ukraine PCA, once the appropriate conditions were formed, the parties would seek to expand their cooperation in other areas. Specifically, in view of the promotion of the economic reform process in Ukraine, the parties undertook the obligation to consider broadening the scope of the aforementioned agreement, mainly the provisions related to commercial transactions, in order to establish free trade zone between the two parties.

2. The Deepening Of EU-Ukraine Relationship Through A Pioneer Association Agreement (AA)

The negotiations for the conclusion of a pioneer, comprehensive and ambitious AA began in March 2007. After the completion of the integration process of Ukraine to the World Trade Organization (WTO) in February 2008, the negotiations between the two parties on the establishment of a deep and comprehensive (global) Free Trade Area (DCFTA) which would be a key component of the AA were initiated. The text of this agreement was initialed on 30.03.2012 while its section on DCFTA was initialed on 19.07.2012. The initialling of the agreement was necessary to maintain the momentum in EU relations with Ukraine³. From the perspective of EU law, this agreement is based on Article 217 TFEU (ex 310 EC) as involving reciprocal rights and obligations, provides for common actions and establishes specific procedures and therefore the creation of competent institutions to organize and implement these actions. It is a mixed agreement concluded on the one hand by the EU and its Member States and the other by Ukraine and constitutes a relevant and critical option for both parties.

2.1. The importance of the deepening of bilateral relations

It is crucial for both parties to strengthen the relations between them. For the EU Ukraine is a major, strategic political and economic partner. Its size, its resources, its population and its geographical position make this state a key regional player that has a significant impact on the security, stability and prosperity of the entire European continent (Costea 2011, p. 262-263)⁴.

Ukraine is the largest economy of the Eastern Partnership (Costea 2011 p. 259-260, 266; Cremona 2008)⁵ with the states that emerged from the dissolution of the Soviet Union and the largest recipient of EU aid with EUR 470 million for the period 2011-2013 (Costea 2011, p. 261). The EU also has significant economic interests in that country with significant imports of natural gas through Ukraine, commercial transactions worth 40 billion euro and investment opportunities in its vast agricultural capacity⁶.

For the EU the relation with this country has evolved into a kind of special case study concerning its ability to exercise influence in the direction of reform and democratization in neighboring countries. The geopolitical dimension of the matter is significant since many Member States regard these relations as a test of the EU capacity to impose its agenda and basic values in its relations with the former Soviet republics, firstly to "claim" them and then in a second phase to reduce Russia's influence and control over them.

Undeniably, the current common belief is that Ukraine's European integration is the main priority of its foreign policy. Despite the fact that relations with Russia (Shumylo-Tapiola 2012, p. 16-24) governed by an agreement of friendship and cooperation (renewed in October 2008 for a period of 10 years) remain close primarily due to historical reasons⁷, but nevertheless, Ukraine considers more significant for its future and its strategic interests the deepening of its relations with

³ EU initials Ukraine agreement 'to keep momentum', 30-3-2012, available at: www.euractiv.com/europes-east/eu-initials-ukraine-agreement-ke-news-511882.

⁴ European Parliament Resolution of 1-12-2011 containing the European Parliament's Recommendations to the Council, the Commission and the EEAS on the negotiations of the EU-Ukraine Association Agreement (2001/2132 (INI)) at: www.europarl.europa.eu/sides.getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011.

⁵ The Eastern Partnership constitutes a strategic plan for the EU to stabilize the European Neighbourhood Policy towards six republics of Eastern Europe: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. With this project, the EU responds to the expressed will of these states to broaden and expand their relationship with it.

⁶ EU-Ukraine relations: A geopolitical test, 16-12-2011 available at: www.euractiv.com/europes-east/eu-ukraine-relations-geopolitica-linkdossier-509764.

⁷ Soutour S., Vers une nouvelle etape dans les relations entre l' UE et l' Ukraine, Rapport d' information, 29-6-2011 available at www.senat.fr/rap/r10-692/r10-6920.html.

the EU and the approach to it. Characteristic of this trend is the reluctance that Ukraine has so far shown to participate in the customs union established between Russia, Kazakhstan and Belarus (Chin-Oldenziel and Nesterov 2011; Shumylo-Tapiola 2012, p. 6)⁸.

It is essential for Ukraine to assert its European identity and enhance the prospect of becoming a full member of the EU. The association agreement which will succeed the PCA is expected to be a fundamental means of achieving this ambitious goal, a significant part of the European perspective of Ukraine.

2.2. *The AA as an instrument of expansion and deepening of the bilateral relations*

The AA includes the Preamble which sets basic objectives and philosophy governing it, seven titles on a) the general fundamental principles and values underpinning the AA, b) political association and cooperation on Foreign and Security Policy, c) Justice, Freedom and Security, d) trade and trade-related issues, e) economic and sectoral cooperation, f) financial cooperation and g) institutional, general and final provisions (Sushko et al 2012, p. 14-16).

The AA is “a new stage in the development of EU-Ukraine contractual relations”⁹ seeking promotion and implementation of political association (political component) and economic integration (economic part) mainly by strengthening the political dialogue and through cooperation in crisis management and regulatory convergence. Simultaneously it leaves open the door for further progressive developments and provides for the joint commitment of the parties to close relations based on shared values and principles¹⁰.

The AA constitutes an ambitious and pioneering as far as its scope is concerned agreement which aims at accelerating the deepening of political and economic relations between the EU and Ukraine and the gradual integration of this country in the EU internal market by establishing a deep and comprehensive free trade area. It also includes a reform agenda, a comprehensive program regarding an approach of Ukrainian legislation to EU law¹¹.

It is clear that the scope of the AA exceeds the PCA reflecting the strategic importance of bilateral relations, provides for binding rules and is comprehensive as it covers all areas of common interest. It is the first agreement establishing a political association between the EU and a country of the Eastern Partnership and has no precedent as to the extent and the number of sectors covered and as to the depth and accuracy of the commitments undertaken by the parties¹².

The signing of the AA will be the point of no return for the foreign policy of Ukraine¹³. This evolution will mark the definitive shift in the geopolitical and economic orientation of the country and the disengagement of the long Russian influence. Finally it will provide the clearest demonstration of the commitment of both parties for a common future and common path.

A critical question is whether the AA is the antechamber for Ukraine's accession into the EU as a full member. Although not of binding character, the Preamble of the AA contains important references to shared values and principles that underpin European integration and are also adopted by Ukraine. Explicit reference is made to democratic principles (Stewart 2011), respect for human rights and fundamental freedoms and the rule of law. Moreover, bilateral relations are governed by principles of free market economy, good governance, the fight against corruption, organized crime and terrorism as well as sustainable development.

Of particular importance is that the Preamble explicitly recognizes Ukraine as a European country that “shares common history”¹⁴ and tradition with EU Member States, as well as its reference to the European identity and the European orientation of the country.

However, the Preamble makes no explicit reference to the prospect of Ukraine's accession to the EU, as sought by Kiev for which the AA is only a significant step towards achieving the strategic objective of making Ukraine a full member of the EU (Shumylo-Tapiola 2012, p. 11). It should be stressed that many Member States have strong reservations about the prospect of Ukraine's accession to the EU.

⁸The fact is that participation in economic integration with Russia, Belarus and Kazakhstan is not for the time being a priority of Ukrainian foreign policy. However the failure to complete the conclusion of the AA may lead Ukraine to redefine and reorient its foreign policy.

⁹ European Union – European External Action Service, EU-Ukraine Association Agreement – “Guide to the Association Agreement”, available at: http://eeas.europa.eu/top_stories/2012/140912_ukraine_en.html.

¹⁰ European Union – European External Action Service, EU-Ukraine Association Agreement – “Guide to the Association Agreement”, n. 9 above.

¹¹ The financial sector constitute a important example.. Ukraine undertook to adopt national rules concerning the prevention and counteraction against money-laundering and financing terrorism. For this purpose, it will adopt and implement the relevant EU anti-money laundering and combating the financing of terrorism legislation namely Directive 2005/60/EC on prevention of the use of the financial system for the purpose of money laundering and terrorist financing, Directive 2006/70/EC, EC Regulation 1781/2006, EC Regulation 1889/2005.

¹² European Union – European External Action Service, Information on the EU-Ukraine Association Agreement, available at: http://eeas.europa.eu/top_stories/2012/140912_ukraine_en.html.

¹³ Kupchyshyn O., Accord d' association entre l' Ukraine et l' Union europeenne : dernière ligne droite, *Economie & Societe*, 22-6-2012, available at: <http://lecercle.lesechos.fr/economie-societe/international/Europe/221148228/accord-das...>

¹⁴ European Union – European External Action Service, EU-Ukraine Association Agreement – “Guide to the Association Agreement”, n. 9 above.

Undeniably Ukraine as a European country is entitled to apply for membership in the EU (Article 49 EU)(Costea, 2011, p. 263)¹⁵. The crucial issue is whether it meets the criteria to be officially recognized as being in candidate member status. For this purpose it has to respect the principles of democracy, human rights, fundamental freedoms, minority rights and the rule of law.

Member States are divided on the prospect of Ukraine joining EU. On the one hand, France, Germany, Holland, Belgium, Spain object to the explicit reference of such perspective in the Preamble while, on the other hand, Member States that joined the EU on 1.5.2004, Sweden, United Kingdom, want the Preamble to be more ambitious towards the implementation of a European vision for the country(Goldirova 2008).

The final decision to exclude from the Preamble any explicit reference to EU accession was borne by the great importance that the majority of Member States attach to the decisive implementation of internal reforms in Ukraine and the fact that EU itself was not prepared, in view of its internal problems, to proceed at this stage to a new enlargement especially to a large (in terms of area and population), and strategically positioned (particularly in the international energy map) country with a “complex economic structure” (Ermolaev in Costea 2011)¹⁶.

Despite the acceleration in the implementation of reforms, there are areas where Ukraine has shown little determination and in some areas has even made steps backwards, a fact that makes the majority of EU Member States to consider that this country does not fulfill the conditions of accession to the EU, it does not satisfy the criteria required in order to obtain the status of candidate countries (Costea 2011, p. 273).

2.3. The establishment of political association

The AA provides for the enhancement of political dialogue and cooperation in the context of both the EU-Ukraine Summit (highest political level) and the Association Council (ministerial level). With the institutionalization of political dialogue the following goals are sought¹⁷:

- (a) to deepen political association and increase the consistency and efficiency in the areas of foreign and security policy.
- (b) to ensure international stability based on the effective functioning of the multilateral security system.
- (c) to enhance cooperation on international security and crisis management, particularly to address global and regional challenges and threats
- (d) to strengthen respect of democratic principles, rule of law and good governance, human rights and fundamental freedoms, including the rights of national minorities
- (e) to contribute to the process of consolidation and stabilization of internal political reforms.

Finally, the contracting parties undertake the obligation to cooperate in the promotion of peace and international justice by ratifying and implementing the Rome Statute of the International Criminal Court.

2.4. The establishment of a deep and comprehensive free trade area

The establishment between the two parties of a free trade area (FTA) that is comprehensive, deep and beyond the scope and importance of classical, traditional free trade area, seeks to deepen Ukraine's access to the EU market and further promote EU's investment in Ukraine (Zarembo 2012). It is expected to be a tool for gradual integration of Ukraine with the EU internal market. The establishment of this area is the most powerful evidence that the economic future of the country is inside the EU.

The EU is an important trading partner of Ukraine. Specifically, about 30% of the country's external trade is conducted with EU. The dynamic bilateral trade relationship is demonstrated by the fact that during the last decade trade has increased by 160%¹⁸. It is significant that in 2012 the value of total trade between the two parties exceeded EUR 38 billion. Specifically, the value of EU exports rose from EUR 13.9 billion in 2009 to EUR 24 billion in 2012, while the value of imports into the EU from Ukraine increased from EUR 7.9 billion in 2009 to EUR 14.5 billion in 2012. The major exports from that country to the EU include food and drinks, raw material and machinery and vehicles while EU exports mainly include machinery and vehicles, chemicals and other manufactured goods (Shumylo-Tapiola 2012, p. 5).

¹⁵ As has been aptly pointed out by R. Sikorski, Foreign Minister of Poland, the Ukraine is not a state neighboring Europe as the third Mediterranean countries but a neighboring European country. Therefore it should not be treated as a neighbor of Europe but as a European neighbor as happened in the past with states such as Poland, Hungary, Czech Republic etc which finally joined the EU.

¹⁶ A. Ermolaev is the Director of National Institute for Strategic Studies.

¹⁷ European union – European External Action Service, EU-Ukraine Association Agreement – “Guide to the Association Agreement”, n. 9 above.

¹⁸ European Council, EU and Ukraine: towards closer relations, available at www.european-council.europa.eu/home-page/highlights/eu-and-ukraine-towards-closer-relations.

In the area of foreign direct investment (FDI), the value of output from the EU to Ukraine in 2011 amounted to EUR 24 billion while the value of inputs from Ukraine amounted to approximately EUR 2.9 billion.

Bilateral trade is characterized by the structural trade deficit of Ukraine with the EU that has increased in recent years from EUR 5 billion to EUR 10 billion reflecting the lack of competitiveness of the Ukrainian economy. To improve this situation, Ukraine joined, with the support of the EU, the WTO and conducted negotiations to establish a free trade zone within the framework of the Association Agreement with the EU. The completion of this process will strengthen the ability of Ukraine to improve its competitive position in international markets.

The establishment of the FTA will meet modern requirements and needs in order to contribute to the promotion of trade, investment and full economic integration between the two parties.

The basis for the creation of a bilateral free trade area was Ukraine's accession to the WTO which would ensure access for their products in the markets of all other members of that organization including the EU, would create conditions of security and stability during the opening of the Ukrainian market in both products, services and foreign investment. In other words, the Ukraine's accession to the WTO was the decisive step towards its integration into the world economic system.

It should be noted that under the provisions of both the PCA and the rules of the multilateral trading system of the WTO, the EU and Ukraine apply mutually in trade in goods the fundamental WTO principle of most favored nation treatment¹⁹. Moreover, the EU grants on a unilateral basis to products originating from Ukraine trade preferences to access the EU market under the Generalized System of Preferences (GSP)²⁰. The provision by the EU of non-reciprocal preferences aims to reduce poverty in developing countries and to promote sustainable development.

The part of the AA relative to the establishment of a free trade area comprises 15 chapters containing provisions which govern all trade-related issues (Movchan and Shportuyk 2012, p. 11-12).

Firstly, the agreement establishes rules on national treatment and access to market of goods (Sushko et al 2012, p. 23-25). It provides in particular for reciprocal tariff liberalization of bilateral trade in accordance with Article XXIV of GATT 1994²¹.

As far as industrial goods trade is concerned, "full liberalization will be achieved"²². In particular, the EU undertakes to remove immediately from the entry into force of the AA all duties on industrial products imported from Ukraine. For its part, Ukraine will make a gradual reduction of duties on products originating from the EU according to a specific schedule so that after 15 years from the entry into force of the AA, all such duties will be eliminated. However, the agreement provides for a special regime on imports of certain industrial products to Ukraine, such as passenger cars and second-hand clothing (Movchan and Shportuyk 2012, p. 12-13).

Regarding the trade of agricultural products, despite significant liberalization, the agreement provides that certain duties will continue to apply.

The contracting parties also agreed to abolish exports duties in bilateral transactions.

The AA lays down provisions expressly providing for the application on the basis of reciprocity of the principle of national treatment in bilateral trade in goods in accordance with Article III of GATT 1994²³.

The agreement provides to contracting parties the possibility to take trade defense measures which constitute an exception to the general regime of liberalization of trade in goods. These measures, which have the common feature that they introduce restrictions on bilateral trade in goods, include anti-dumping measures, Countervailing Measures and Safeguards (Trade defense measures). The implementation of these measures will be in accordance with the WTO Agreements, in particular Articles VI and XIX of GATT 1994, Agreement on Safeguards, Agreement on Implementation of Article VI (antidumping), and Agreement on Subsidies and Countervailing Measures.

The AA establishes a legal framework of liberalization of cross-border supply of services and establishment of investors of both parties to pursue an economic activity (Right of establishment, services, e-commerce). This evolution concerns all types of services excluding mining, manufacturing and processing of nuclear materials, manufacture or trade in weapons, munitions and military material, audiovisual services and various service sectors related to air transportation. Major liberalization is expected in sectors such as finance, mail and computer, telecommunication etc.

It also envisages a regime of liberalization of capital movements and current payments (Sushko et al, 2012, p. 28).

Besides the mutual opening of markets for most goods and services of the parties, particularly important element of the FTA is the establishment of binding rules for progressive and deep regulatory harmonization / convergence with the EU acquis, ie the approach to the rules and EU standards in the field of trade and trade-related issues and in particular in the

¹⁹ According to this principle, each WTO member accords to products of any other member treatment no less favorable than that it accords to like products of any other country.

²⁰ It should be noted that Ukraine ranks 12th, among the most effective users of the EU's GSP.

²¹ It is estimated that the reduction and elimination of customs duties will result in saving an average annual amount of approximately EUR 750 million.

²² Movchan, V. and Shportuyk, V. 2012. *EU-Ukraine DCFTA : the Model for Eastern partnership Regional Trade Cooperation*, CASE Network Studies & Analyses, No 445/2012, available at www.case-research.eu/sites/default/files/publications/CNSA_2012_445.pdf.

²³ According to this principle, each WTO member accords products of another member regulatory and fiscal treatment no less favorable than that accorded to products of national origin.

field of technical regulations, specifications, standards and conformity assessment procedures (Technical barriers to trade), the SPS (Sanitary and phyto-sanitary measures) and in the area of customs procedures (Customs issues and trade facilitation). This regulatory approximation seeks to tackle the so-called “beyond the border” obstacles to bilateral trade.

It is understood that the commitment of Ukraine to undertake / adopt the EU *acquis* will necessitate many significant changes in the regulations of that country. For the implementation of these legal and institutional reforms in trade, financial assistance from EU will be necessary.

In the field of Technical Barriers to Trade (TBT) and Sanitary and Phyto-sanitary Measures (SPS) the DCFTA “envisages considerable convergence of Ukraine's regulatory framework, including approximation to EU procedures in standardization, metrology, accreditation, and conformity assessment” (Sushko et al 2012, p. 26-28)²⁴. Ukraine undertakes to apply the principles contained in the EU Directives on TBT and SPS. Especially in the TBT area, AA requires Ukraine to incorporate EU rules on national rules and eliminate those who are inconsistent with EU rules.

The future free trade area will cover all trade related issues, namely the creation of conditions for reciprocal access to public procurement markets according to principle of national treatment (Public procurement)²⁵, the protection of competition from anticompetitive practices of both enterprises and government of the parties (competition policy (anti-monopoly measures, state aid)²⁶, protection of IPR (Intellectual Property Rights). The approximation to the EU legislation of the Ukrainian legislation on the protection of intellectual property rights is an important commitment of the country (Movchan and Shportuyk 2012, p. 14-15).

Concerning integration in the energy area, Ukraine must adopt all necessary measures for the implementation and effective enforcement of its obligations under Energy Community Treaty to which it has acceded on 1-2-2011 (Costea 2011, p. 274).

The provisions of the chapter on trade and trade-related matters will form a new climate for economic transactions between the two parties, by creating new trade and investment opportunities and increasing competitiveness. This evolution would give a new impetus to economic growth in Ukraine which combined with the increase of state revenues due to indirect taxes paid by businesses seeking new markets for their activities, would outweigh the short-term revenue losses due to the elimination of customs duties on imports of EU products (Dabrowski and Taran 2012).

The most significant benefits to result from the DCFTA are the following (Shumylo-Tapiola 2012, p. 8-10; Movchan and Guicci 2011) :

- as far as consumers are concerned it will ensure better access to a larger variety of products and stricter safety requirements for products on domestic market;
- as far as businesses are concerned it will ensure duty-free access to the EU market, creating significant business opportunities while the embedment of the EU *acquis* into national legislation will improve the domestic investment climate by creating a regulatory framework attractive to foreign investors;
- the approximation with EU standards will contribute to compliance with standards accepted internationally, thus improving access to the third-country markets.

2.5. *The institutional framework for operation and proper application of the AA*

The institutional structure established by the AA includes :

- at the highest political level, the Summit with participation of President of the European Council and the President of the European Commission on the one hand and the President of Ukraine on the other.
- at ministerial level, the Association Council which is empowered to make decisions binding the Parties on all matters within the scope of the AA
- the Association Committee to assist the Council in carrying out its tasks and which may establish sub-committees for the implementation of bilateral cooperation in the fields provided by the AA
- at parliamentary level, the Parliamentary Association Committee composed of members of the European Parliament and of the Ukrainian Parliament.

Apart from these bodies, the AA also establishes mechanisms for proper implementation of the provisions and achievement of its objectives.

²⁴ Movchan, V. and Shportuyk, V. 2012, n.22 above.

²⁵ It is important to work towards further harmonization of the Ukrainian public procurement legislation with the EU *acquis* as set out in EU Directives 2004/17, 2004/18, 89/665 and 92/13 as amended by Directive 2007/66.

²⁶ In Ukraine the national legislation on competition is broadly compatible with EU law. A national authority responsible to protect economic competition in the country has been established.

A key element of the AA is the concept of gradual approximation of Ukrainian legislation with the norms and standards of the EU. Specific timeframes are provided, ranging from 2 to 10 years after the entry into force of the AA, during which Ukraine should promote these approach measures.

Since EU law is constantly evolving to adapt to constantly changing conditions and situations, the approximation process should be dynamic and this following the basic ongoing within the EU reforms.

To check whether the contractual obligations entered into by the parties are observed in practice, the AA provides mechanisms not only to supervise the implementation and achievement of objectives, but also to enforce the measures adopted by this agreement. This aspect is particularly important in the establishment of the FTA.

Finally, the entire system of procedures to safeguard the functioning of the AA is supplemented by the established mechanism for settlement of disputes that may arise during implementation. The activation of this mechanism would be caused and result from failure, by one of the parties, to meet the constraints imposed by the AA obligations. Particularly for the deep and comprehensive free trade area, it is provided in the form of a protocol a mechanism to exclusively settle disputes related to commercial arrangements between the parties, which is inspired by the dispute settlement mechanism of the WTO.

3. The implementation of reforms critical parameter for the future of bilateral relations

The signing of the AA and generally Ukraine's European integration directly depend on, in other words are inextricably linked with the promotion by Ukraine decisively of specific reforms in areas defined by the Council of the EU²⁷. This link was clearly reaffirmed at the 16th EU-Ukraine Summit held on 25.02.2013 in Brussels²⁸. In particular, Ukraine is obliged to fulfill its commitments in the following areas: the compliance of the 2012 parliamentary elections with international standards and follow-up actions, progress in ensuring the independence and impartiality of the judiciary and the implementation of political and economic reforms defined in the Association Agenda.

It is essential for the Ukrainian authorities to take all necessary measures to establish a reliable electoral system based on a clear election code and stable-transparent rules to ensure balanced media access for candidates as well as to promote "the comprehensive reform of the judiciary in line with European standards"²⁹.

Emphasis is given to the Ukraine's commitment to implement the judgments of the European Court of Human Rights and the recommendations of the Council of Europe concerning detention conditions and medical care for prisoners³⁰.

Ukraine has made significant progress in reforming the criminal justice system by introducing a new Criminal Procedure Code and establishing a national preventive mechanism against torture. It has undertaken to take further measures relating the functioning of the prosecutor's Office, the Criminal Code, the Status of judges and the police. The adoption of a law on asylum and refugee status is important too.

The third area concerns the implementation of the reforms contained in the Association Agenda (Sushko and Zelinaska 2012) established by mutual agreement of both parties. The main part of this Agenda are the reforms that are necessary for setting up the DCFTA and seek to fight corruption, reform the system of public financial management and in particular the creation of a favorable investment and business climate.

The adoption of the new tax and customs code as well as the introduction of framework legislation on Public Procurement should be recognized as a major reform step.

Despite the fact that it "did take steps toward legal and judicial reform"³¹, however Ukraine has in the immediate future to take all necessary measures to address conflicts of interest and corruption and to stabilize its public institutions, to ensure that the constitutional reform process will be completed in a transparent manner in close cooperation with the Council of Europe, to establish a macroeconomic framework that creates a favorable climate for the resumption of IMF support, addressing such issues as fiscal sustainability in the energy sector³².

In view of the establishment of a DCFTA, the EU expects from the Ukraine to refrain from implementing protectionist measures, such as recycling fees on vehicles that are potentially contrary to the commitments that it took under the WTO. Ukraine has also to withdraw its request for renegotiation of its commitments within the framework of the WTO under Article XXVIII of GATT.

The demonstration of the Ukrainian authorities determination to implement all this program will pave the way for the signing of the AA. An important evolution is the adoption, on 15 May 2013, by the Commission of the proposals for EU

²⁷ Conclusions of the 10 December 2012 Foreign Affairs Council of the European Union.

²⁸ Council of the European Union, 16th EU-Ukraine Summit : Joint Statement, Brussels, 25-2-2013.

²⁹ Council of the European Union, 16th EU-Ukraine Summit : Joint Statement, n. 28 above.

³⁰ Council of the European Union, 16th EU-Ukraine Summit : Joint Statement, n. 28 above.

³¹ ENP Country Progress Report 2012 – Ukraine, MEMO/13/257, 20-3-2013 available at: http://europea.eu/rapid/press-release_MEMO-13-257_en.htm.

³² ENP Country Progress Report 2012 – Ukraine, MEMO/13/257, 20-3-2013, n. 31 above.

Council decisions on the signing and provisional application of the agreement. The goal is to sign the agreement within the Eastern Partnership Summit scheduled for November 2013.

4. Conclusion

The EU and Ukraine have common border, maintain close trade relations while sharing common cultural and historical heritage. A fundamental element of their relationship is the common commitment to respect the rule of law, democratic principles and fundamental freedoms.

These relations are in transition from the cooperation provided by the PCA in integration based on AA with which Ukraine has committed to assume and implement a large part of the EU acquis. Although the EU seeks to maintain Ukraine within its trajectory, however, it will not make any concessions and compromises regarding the adoption by this country of the basic values of the EU.

The Ukraine's European perspective will be judged by its efforts to ensure domestic political stability and political pluralism, respect of the rule of law and acceleration of institutional, legal and economic reforms. It is crucial for Ukraine to promote the entire reform agenda under the AA in order to arrive at a point to fulfill all the criteria for future membership in the EU.

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